THE HON'BLE SMT. JUSTICE T.MEENA KUMARI
AND
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

W.P.NOS.19618 AND 20162 OF 2007

COMMON ORDER (Per the Hon'ble Smt. Justice T.Meena Kumari)

Heard both the counsel.

2. Since both the writ petitions are filed against the order of the Tribunal dated 15.06.2007 passed in O.A.No.2317 of 2006 i.e., W.P.No.19618 of 2007 is filed by the Andhra Pradesh Public Service Commission (for short 'the Commission') and W.P.No.20162 of 2007 is filed by the Government, both the writ petitions are being disposed of by this common order.

3. The learned counsel appearing on behalf of the writ petitioners in both the writ petitions contended that the applicant shall possess the requisite physical measurements i.e., she shall have not less than 150 cms. height and 79 cms. around the chest on expiration and must have on full inspiration of not less than 5 cms. as on the date of the notification and as the applicant did not possess the requisite measurements, she was not selected and though she possess the requisite physical measurements as per the report of the Medical Board of Gandhi Hospital, the same cannot be considered and only the physical measurements as on the date of the notification are the criteria and, therefore, the Tribunal is not justified in directing the Government to select the applicant.

4. On the other hand, the learned counsel appearing for the applicant/respondent supporting the impugned order of the Tribunal sought for dismissal of the writ petitions.

5. From the material available on record it could be seen that the Commission has issued advertisement no.9/98 for the post of Assistant Conservator of Forests and there is no dispute that the applicant who is a lady, possessed all the qualifications including the requisite height and the dispute is only with regard to the physical measurements of the chest. Alleging that the candidates with lesser marks were selected, the applicant filed O.A.No.2435/1999 and when the said O.A. was dismissed, the applicant filed W.P.No.3764/2004 and the Division Bench of this court finding the conflict between the medical certificate produced by the applicant and the report of the Medical Board of Osmania General Hospital, by order dated 3.12.2004 directed that the applicant be examined by an expert appointed by the Government. As there was no action pursuant to the orders of the Division Bench, the applicant filed the present O.A. and pursuant to the interim orders of the Tribunal dated 5.5.2006, the applicant was examined by the Medical Board of Gandhi Hospital, Secunderabad on 15.7.2006 and as per the report of the Medical Board, her height is 160 cms, chest measurements on full inspiration is 90 cms and on full expiration is 85 cms and the difference in expansion is 5 cms. Therefore, as per the report of the Medical Board of Gandhi Hospital, the applicant is having requisite chest measurements. It is to be noticed that the order of the Division Bench of this court directing the applicant to be examined by an expert appointed by the Government, has become final, as it was not challenged. Further it is also to be conspicuously noticed that though the Division Bench of this court passed orders on 3.12.2004, the Commission did not take any steps and only pursuant to the interim orders of the Tribunal on 5.5.2006, the applicant was examined by the Medical Board of Gandhi Hospital on 15.7.2006. In view of these circumstances, the Tribunal has rightly rejected the contention of the Government that the applicant might have improved her chest measurements due to lapse of time. Considering the above facts and

circumstances, the Tribunal rightly directed the writ petitioners herein to issue orders selecting the applicant as Assistant Conservator of Forests and send her for necessary training.

6. For the foregoing reasons and the facts and the circumstances of the case, we do not find any merit in the writ petitions and the same are dismissed, confirming the orders of the Tribunal. No costs.

T.MEENA KUMARI,J

G.CHANDRAIAH,J

AVS
DATE:31.10.2007

Note:

Issue C.C. by Monday (5.11.07.)
B/O